

Delta Plan Development – Initial Steps

Requested Action: Receive a preliminary staff analysis of the Delta Plan preparation process, provide Council information about the development of the Notice of Preparation for the Delta Plan environmental documentation, and adopt a tentative timetable for needed activities.

Summary

Water Code section 85300 requires the Delta Stewardship Council (Council) on or before Jan. 1, 2012, to “develop, adopt, and commence implementation of the Delta Plan pursuant to this part that furthers the coequal goals.” The Delta Plan will include subgoals and strategies which will guide state and local agency actions related to the Delta. A Draft Delta Plan will be prepared by June 2011 for public review. A Final Delta Plan will be prepared for adoption by the Council by December 2011.

The Delta Plan will also establish strategies which must be used by other agencies in their formulation of plans and projects. Given the statutory breadth and scope of the Delta Plan and its central role in achieving the coequal goals, the Delta Plan is likely to have a significant effect on the environment and therefore legal counsel has advised us it meets the definition of a project that will require preparation of an environmental impact report in accordance with the California Environmental Quality Act (CEQA).

Environmental documentation also is required under the National Environmental Policy Act (NEPA) in order to make the plan consistent with the Coastal Zone Management Act or its’ equivalent as required in the law. However, at this time designation of an appropriate NEPA lead agency has not been made. Therefore, staff recommends your initial efforts focus on CEQA with it being done in such a way that is compatible with meeting the requirements of NEPA.

Background

Preparation of the Delta Plan will require development and review of alternative strategies to achieve our mandated objectives. Once that effort is undertaken and completed, the Council will initially identify a range of alternatives and select a potential proposed plan.

The evaluation of alternatives will use a range of criteria developed during preparation of the Delta Plan. Any alternative strategies considered will be evaluated in accordance with CEQA requirements. Staff suggests that the Council use the CEQA process to

identify the range of alternatives to be considered in the Delta Plan. This is consistent with the critical path schedule to prepare the EIR. A CEQA Process Flow Chart is included as Attachment 1.

The next step is to initialize the EIR process by development and adoption of a Notice of Preparation (NOP). Section 15375 of CEQA describes the NOP as a "brief notice sent by a Lead Agency to notify the Responsible Agencies, Trustee Agencies, the Office of Planning and Research, and involved federal agencies that the Lead Agency plans to prepare an EIR for the project. The purpose of the notice is to solicit guidance from those agencies as to the scope and content of the environmental information to be included in the EIR."

Publication of the NOP initiates a 45-day comment period for government agencies and the public on the Draft NOP. At least one scoping meeting must be held during this period.

Staff has prepared an initial outline of the NOP (Attachment 2) in accordance with CEQA guidelines and in a way to satisfy NEPA requirements to facilitate use of this process for the NEPA lead agency.

Staff recommends that the NOP be organized in roughly the following order and with the suggested dates. The Council will be asked to review, discuss, receive public comments and otherwise adopt the precise language of the NOP no later than December 2010.

- Objectives of the Delta Plan - to serve as basis for the development of alternatives. Suggested action at Council meeting of September 2010
- Timeframe for Period of Study (possibly 5, 20, 50, or 100 years?), Suggested action at Council meeting of September 2010
- Range of alternatives (a preliminary concept is included in Attachment 3) – Suggested action at Council meeting of October 2010
- Potential effects of proposed project, which is needed in order to identify the level of detail necessary for the EIR analyses (based on CEQA Environmental Checklist Form as included in Attachment 4). Suggested action at Council meeting of October 2010
- Identification of proposed project. Suggested action at Council meeting of November 2010

Compliance with this schedule allows publication of the NOP by mid-December 2010, which will initiate a 45-day scoping process. Public scoping meetings would occur in January. A scoping report will be prepared to summarize comments received on the NOP and Council action to finalize the alternatives to be evaluated in detail in the EIR would be anticipated by February 2011.

List of Attachments

Attachment 1 – CEQA Process Flow Chart (CEQA Appendix A)
Attachment 2 – Preliminary Outline of Notice of Preparation
Attachment 3 – Preliminary Concept for Development of Alternatives for EIR Analyses
Attachment 4 – CEQA Environmental Checklist Form (CEQA Appendix G)

Contact

Terry Macaulay Phone: (916) 445-5825
Acting Deputy Executive Officer